



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

February 16, 2010

Number: **INFO 2010-0005**
Release Date: 3/26/2010

CONEX-101403-10

UIL 36.00-00

The Honorable Bill Nelson
United States Senator
Landmark Two
225 East Robinson Street, Suite 410
Orlando, FL 32801

Dear Senator Nelson:

This letter responds to your inquiry dated January 5, 2010, on behalf of your constituent, _____, who wrote about having to repay the first-time homebuyer credit for the purchase of a home in 2008.

The first-time homebuyer credit differs, depending on when a taxpayer purchases a home. For purchases on or after April 9, 2008, and before January 1, 2009, qualifying taxpayers can receive a credit of up to \$7,500, which they must repay over a 15-year period (section 36(f)(1) of the Internal Revenue Code (the Code)). For purchases after December 31, 2008, and before May 1, 2010, a qualifying taxpayer can receive a credit of up to \$8,000 and not have to repay the credit if the taxpayer does not sell or stop using the residence as a principal residence within three years after the date of purchase of the residence (section 36(f)(4)(D) of the Code).

_____ said she qualified to take the first-time homebuyer credit for a home purchased between April 9, 2008, and December 31, 2008. She therefore must repay the first-time homebuyer credit. We do not have the administrative authority to disregard the repayment requirement. To do so, the Congress would need to change the tax law.

I am sorry my response is not more favorable, but I hope this information is helpful. If you have any, please contact _____ at _____ .

Sincerely,

William A. Jackson
Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax and Accounting)